

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

PAMELA STONEBREAKER,

Plaintiff,

vs.

GUARDIAN LIFE INSURANCE
COMPANY OF AMERICA, a
corporation; WESTERN RESERVE LIFE
INSURANCE COMPANY OF OHIO, a
corporation; UNION SECURITY
INSURANCE COMPANY, a corporation;
DOES 1-100, inclusive.

Defendants.

WESTERN RESERVE LIFE
INSURANCE COMPANY OF OHIO, a
corporation,

Counterclaimant,

vs.

PAMELA STONEBREAKER,

Counterdefendant.

WESTERN RESERVE LIFE
INSURANCE COMPANY OF OHIO, a
corporation,

Third-party Plaintiff,

vs.

ROE ONE, as executor of the Estate of
Robert Stonebreaker; ROES 2-10,
inclusive;

Third-party Defendants.

CASE NO. 11cv797 WQH (WVG)

ORDER

1
2
3 UNION SECURITY INSURANCE
COMPANY, a corporation

4 Counterclaimant,

5 vs.

6 PAMELA STONEBREAKER, an
individual.

7 Counterdefendant.

8 UNION SECURITY INSURANCE
COMPANY, a corporation

9 Cross-Claimant,

10 vs.

11 KRISTIN STONEBREAKER, a minor;
12 KELLI STONEBREAKER, a minor;

13 Cross-Defendant.

14 GUARDIAN LIFE INSURANCE
COMPANY OF AMERICA, a
15 corporation,

16 Counterclaimant,

17 vs.

18 PAMELA STONEBREAKER,

19 Counterdefendant.

20 GUARDIAN LIFE INSURANCE
COMPANY OF AMERICA, a
21 corporation,

22 Cross-Claimant,

23 vs.

24 KRISTIN STONEBREAKER, a minor;
25 KELLI STONEBREAKER, a minor;
26 RYAN STONEBREAKER, a minor,

27 Cross-Defendants.
28

1 HAYES, Judge:

2 The matters before the Court are the following Motions filed by Plaintiff: the Motion for
3 Partial Summary Judgment on Plaintiff's Breach of Contract Claims (ECF No. 37); the Motion
4 for Summary Judgment on Defendant Guardian Life Insurance Company of America's
5 ("Guardian") Counterclaim in Interpleader and Cross-claim for Interpleader (ECF No. 116); the
6 Motion for Summary Judgment on Defendant Western Reserve Life Assurance Company of
7 Ohio's ("Western Reserve") Counterclaim in Interpleader and Third-party Complaint for
8 Interpleader (ECF No. 117); the Motion for Summary Judgment on Defendant Union Security
9 Insurance Company's ("Union Security") Counterclaim in Interpleader and Cross-claim for
10 Interpleader (ECF Nos. 118, 122); the Motion for Release of Funds that Guardian Deposited
11 with the Court (ECF No. 152); the Motion for Release of Funds that Union Security Deposited
12 with the Court (ECF No. 153-54); and the Motion for Release of Funds that Western Reserve
13 Deposited with the Court (ECF No. 155); and the Motion for Judgment in Interpleader (ECF
14 No. 88) filed by Western Reserve; and the Motion for Discharge and Dismissal of Disinterested
15 Stakeholder (ECF No. 141) filed by Union Security.

16 **I. Background**

17 On April 15, 2011, Defendants Guardian, Western Reserve, and Union Security removed
18 the Complaint filed by Plaintiff Pamela Stonebreaker in the Superior Court of California for the
19 County of San Diego to this Court pursuant to 28 U.S.C. § 1332(a) diversity jurisdiction.
20 Plaintiff alleged that she was married to Robert Stonebreaker who purchased the following life
21 insurance policies: (1) three policies from Defendant Guardian totaling \$2,000,000; (2) one
22 policy from Defendant Western Reserve in the amount of \$250,000; (3) one policy from
23 Defendant Union Security in the amount of \$525,000. Plaintiff alleged that Robert
24 Stonebreaker died on January 16, 2010 and that Defendants have failed to pay the life insurance
25 benefits to Plaintiff, the primary beneficiary. Plaintiff asserts a claim for breach of contract and
26 a claim for breach of the implied covenant of good faith and fair dealing against each
27 Defendant.

28 On April 21, 2011, Defendant Western Reserve filed a Counterclaim in Interpleader

1 against Plaintiff Stonebreaker and a Third-party Complaint in Interpleader against the executor
2 of the Estate of Robert Stonebreaker.¹ Western Reserve alleged that Plaintiff is the primary
3 beneficiary to a life insurance policy owned by Robert Stonebreaker, and that there are no
4 secondary beneficiaries. Western Reserve alleged that Robert Stonebreaker's death was
5 determined to be a homicide and that Plaintiff, the beneficiary of the life insurance policy, was
6 a suspect in the homicide. Western Reserve alleged that Plaintiff may be prohibited from
7 recovering the proceeds of the life insurance policy if she is found to have caused her
8 husband's death and that the proceeds would be distributed to the Estate of Robert
9 Stonebreaker. Western Reserve alleged that, although Western Reserve admits the proceeds
10 of the life insurance policy are due and owing to someone, payment of the proceeds may
11 subject Western Reserve to the risk of multiple claims. Western Reserve deposited
12 \$251,576.62 with the Clerk of the Court as "the benefits payable under a life insurance policy
13 issued by [Western Reserve] on the life of Robert Stonebreaker." (ECF No. 10 at 2).

14 On April 22, 2011, Defendant Union Security filed a Counterclaim in Interpleader
15 against Plaintiff and filed a Cross-claim in Interpleader against the guardian ad litem for
16 Kristin Stonebreaker and Kelli Stonebreaker, minor children. Union Security alleged that
17 Plaintiff is the primary beneficiary to a life insurance policy owned by Robert Stonebreaker
18 and that Kristin Stonebreaker and Kelli Stonebreaker are the secondary beneficiaries. Union
19 Security alleged that it is willing and able to pay the proceeds of the life insurance policy, but
20 it cannot determine the identity of the proper beneficiary. Union Security deposited
21 \$560,956.58 with the Clerk of the Court. (ECF No. 49 at 2; 140 at 8).

22 On April 22, 2011, Guardian filed a Counterclaim for Interpleader against Plaintiff and
23 filed a Cross-claim in Interpleader against Kristin Stonebreaker, Kelli Stonebreaker, and Ryan
24 Stonebreaker, minor children. Guardian alleges that Plaintiff is the primary beneficiary to a
25 life insurance policy owned by Robert Stonebreaker and that Kristin Stonebreaker, Kelli
26 Stonebreaker, and Ryan Stonebreaker are the secondary beneficiaries. Guardian alleged that
27 it is willing and able to pay the proceeds of the life insurance policy, but it cannot determine
28

¹ To date, an executor has not been appointed to the Estate of Robert Stonebreaker.

1 the identity of the proper beneficiary. Guardian deposited \$1,998,397.41 with the Clerk of the
2 Court as “the benefits payable under a life insurance policies issued by [Guardian] on the life
3 of Robert Stonebreaker.” (ECF No. 121 at 2).

4 On June 10, 2011, Plaintiff filed a Motion for Partial Summary Judgment on the breach
5 of contract claim against all three Defendants.² (ECF No. 37).

6 On July 11, 2011, a guardian ad litem was appointed to represent Kristin Stonebreaker,
7 Kelli Stonebreaker, and Ryan Stonebreaker, the minor children in this case.

8 On August 29, 2011, Western Reserve filed a Motion for Judgment in Interpleader
9 (ECF No. 88).

10 On October 4, 2011, Plaintiff filed a Motion for Summary Judgment on Guardian’s
11 Counterclaim in Interpleader and Cross-claim for Interpleader (ECF No. 116), a Motion for
12 Summary Judgment on Western Reserve’s Counterclaim in Interpleader and Third-party
13 Complaint for Interpleader (ECF No. 117), and a Motion for Summary Judgment on Union
14 Security’s Counterclaim in Interpleader and Cross-claim for Interpleader (ECF Nos. 118,
15 122).³

16 On November 14, 2011, Union Security filed a Motion for Discharge and Dismissal of
17 Disinterested Stakeholder (ECF No. 141).

18 On November 23, 2011, the guardian ad litem for Kristin, Kelli, and Ryan Stonebreaker
19 filed a “Notice of No Competing Claim and Non-opposition to the Motion for Disbursement
20 of Funds to Plaintiff Stonebreaker.” (ECF No. 151). The guardian ad litem states “that she
21 has not and is not making competing claims to the funds that [Guardian], [Union Security], and
22

23 ² On December 7, 2011, Plaintiff withdrew her Motion for Partial Summary Judgment
24 (ECF No. 37). See ECF No. 174 at 2 (“In light of the Court’s ruling in *Stonebreaker v. Pruco*
25 *Life Ins. Co.*, Case No. 3:11-cv-00871-WQH-WVG (S.D. Cal. Nov. 4, 2011) (ECF No. 51),
26 Mrs. Stonebreaker hereby withdraws her motion for partial summary judgment on her breach
of contract claim (ECF No. 37).”). Accordingly, the Motion for Partial Summary Judgment
filed by Plaintiff (ECF No. 37) is DENIED as moot.

27 ³ Plaintiff is not a party to Guardian’s Cross-claim for Interpleader, Western Reserve’s
28 Third-party Complaint for Interpleader, or Union Security’s Cross-claim for Interpleader.
Accordingly, Plaintiff may not move for summary judgment on Guardian’s Cross-claim for
Interpleader, Western Reserve’s Third-party Complaint for Interpleader, or Union Security’s
Cross-claim for Interpleader.

1 [Western Reserve] have deposited with the Court.... [The guardian ad litem] is unaware of
 2 evidence sufficient to justify making a competing claim and ... believes that the Stonebreaker
 3 children have no right to claim the policy proceeds.” *Id.* at 2.

4 On November 23, 2011, Plaintiff filed a Motion for Release of Funds that Guardian
 5 Deposited with the Court (ECF Nos. 152-53), a Motion for Release of Funds that Union
 6 Security Deposited with the Court (ECF No. 154), and a Motion for Release of Funds that
 7 Western Reserve Deposited with the Court (ECF No. 155).

8 **II. Interpleader**

9 There are two steps to an interpleader action. The first step is determining whether the
 10 requirements of interpleader have been met. *See* 28 U.S.C. § 1335. The second step is to
 11 “adjudicat[e] the adverse claims of the defendant claimants.” *W. Conf. of Teamsters Pension*
 12 *Plan v. Jennings*, Case No. C–10–03629 EDL, 2011 WL 2609858 at * 5 (N.D. Cal. June 6,
 13 2011) (noting that bifurcation is not mandatory and the entire action may be disposed of at one
 14 time) (citing *N.Y. Life Ins. Co. v. Connecticut Development Authority*, 700 F.2d 91, 95 (2nd
 15 Cir. 1983)); *see also* 28 U.S.C. § 2361 (stating that the district court “shall hear and determine
 16 the case ... and make all appropriate orders to enforce its judgment.”). The Court has not yet
 17 ruled on the first step.

18 Pursuant to 28 U.S.C. § 1335,

19 [t]he district courts shall have original jurisdiction of any civil action of
 20 interpleader or in the nature of interpleader filed by any person, firm, or
 21 corporation, association, or society having in his or its custody or possession
 money or property of the value of \$500 or more ... if

22 (1) Two or more adverse claimants, of diverse citizenship . . . are claiming or
 may claim . . . to be entitled to such money or property ... and if

23 (2) the plaintiff has deposited such money or property ... to the clerk of the court
 24 in such amount and with such surety as the court or judge may deem proper,
 25 conditioned upon the compliance by the plaintiff with the future order or
 judgment of the court with respect to the subject matter of the controversy.

26 Federal Rule of Civil Procedure 22 provides: “A defendant exposed to [claims that may
 27 result in double or multiple liability] may seek interpleader through a crossclaim or
 28 counterclaim.” Fed. R. Civ. P. 22(a)(2). “The court’s jurisdiction under the interpleader
 statute extends to potential, as well as actual, claims.” *Minnesota Mut. Life Ins. Co. v. Ensley*,

1 174 F.3d 977, 980 (9th Cir. 1999) (citation omitted) (affirming the grant of judgment in
2 interpleader even though only one potential claimant to insurance proceeds had filed a claim
3 due to the possibility of other claims).

4 California Probate Code section 252 provides: “A named beneficiary of a ... life
5 insurance policy ... who feloniously and intentionally kills the ... person upon whose life the
6 policy is issued is not entitled to any benefit under the ... policy ... and it becomes payable as
7 though the killer had predeceased the decedent.” Cal. Prob. Code § 252. In general, an insurer
8 may assert an interpleader action where it is faced with multiple liability due to the primary
9 beneficiary’s potential disqualification under California Probate Code section 252. *United*
10 *Investors Life Ins. Co. v. Grant*, 387 F. App’x 683, 686 (9th Cir. 2010) (holding that the insurer
11 “knew enough details about the case by the time it filed a complaint in interpleader to justify
12 its fear of multiple liability” on the grounds that “if [defendant to complaint in interpleader]
13 were determined to have murdered her husband, [the insurer] could remain liable on the life
14 insurance policy even if it had already paid her.”); *see also Glass v. United States*, 506 F.2d
15 379, 383 (10th Cir. 1974) (noting that an interpleader action is “specifically designed” for
16 cases in which the beneficiary of a life insurance policy may have murdered the insured).

17 In cases where there is a single claimant to a fund and all potential claimants
18 affirmatively disavow their interest in the fund, courts have found that the party seeking
19 interpleader fails to meet its burden to demonstrate it is entitled to interpleader. *See e.g.,*
20 *Dunbar v. United States*, 502 F.2d 506, 510-11 (5th Cir. 1974) (holding that the government
21 failed to meet its burden for interpleader where the sender of a package containing money
22 claimed an interest in the fund, but the intended recipient “answered the interpleaded complaint
23 with a positive denial of any right, title or interest in the fund.”); *Vanderlinden v. Metro. Life*
24 *Ins. Co.*, 137 F. Supp. 2d 1160, 1163 (D. Neb. 2001) (finding that insurer failed to meet its
25 burden for interpleader where the other potential claimants “disavowed any interest in the
26 insurance proceeds, and have prayed for dismissal of the third-party complaint.”); *cf. N.Y. Life*
27 *Ins. Co. v. Conn. Dev. Auth.*, 700 F.2d 91, 95 (2d Cir. 1983) (finding that interpleader was
28 proper where insurance proceeds named three beneficiaries, one beneficiary claimed an interest

1 in the fund, and the other two “refused to release their interests” in the fund then defaulted in
 2 the proceeding). However, when individual with valid claims to the interpleader funds agree
 3 amongst themselves to the distribution, interpleader is not defeated. *See Island Title Corp. v.*
 4 *Bundy*, 488 F. Supp. 2d 1084, 1093 n.10 (D. Haw. 2007).

5 In an interpleader, the court “shall hear and determine the case, and may discharge the
 6 plaintiff from further liability, make the injunction permanent, and make all appropriate orders
 7 to enforce its judgment.” 28 U.S.C. § 2361 (“In any ... interpleader under section 1335 of this
 8 title, a district court may ... enter its order restraining [all claimants] from instituting or
 9 prosecuting any proceeding in any State or United States court affecting the property,
 10 instrument or obligation involved in the interpleader action until further order of the court.”);
 11 *see also Mendez v. Teachers Ins. & Annuity Ass’n and College Retirement Equities Fund*, 982
 12 F.2d 783, 787 (2d Cir. 1992) (holding that once it is determined that an interpleader action is
 13 appropriate, the court is entitled to discharge a plaintiff-stakeholder who has no interest in the
 14 disputed funds); *Valley Forge Life Insurance Company v. Dena Hulse*, Case No. C 06-6415
 15 PJH, 2007 WL 2012740 at *2 (N.D. Cal. July 6, 2007)). However, “any injunction that is
 16 issued only can extend to litigation involving the fund that is the subject matter of the
 17 interpleader.” *Wash. Elec. Co-op., Inc. v. Paterson, Walke & Pratt, P.C.*, 985 F.2d 677, 680
 18 (2d Cir. 1993) (citations omitted); *Prudential Ins. Co. of Am. v. Hovis*, 553 F.3d 258, 264 (3rd
 19 Cir. 2009) (“[W]here a claimant brings an independent [claim] against the stakeholder, the
 20 stakeholder is kept in the litigation to defend against the [claim], rather than being dismissed
 21 after depositing the disputed funds with the court.”) (citation omitted). Where a separate claim
 22 proceeds against the disinterested stakeholder, interpleader jurisdiction is not defeated. *See*
 23 *Libby, McNeill, and Libby v. City Nat. Bank*, 592 F.2d 504, 507 (9th Cir. 1978) (“[T]he mere
 24 potentiality of independent stakeholder liability, separate from liability for the interpleaded
 25 fund, will not defeat interpleader jurisdiction.”).

26 A party “should be awarded attorney fees for the services of his attorneys in
 27 interpleading.” *Schirmer Stevedoring Co. Ltd. v. Seaboard Stevedoring Corp.*, 306 F.2d 188,
 28 194 (9th Cir. 1962). The court exercises its discretion to determine whether the amount of

attorney fees which are requested is reasonable. *See Tr. of Dir. Guild of Am.-Producer Pension Benefits Plans v. Tise*, 234 F.3d 415, 426 (9th Cir. 2000); *Gelfgren v. Republic Nat. Life Ins. Co.*, 680 F.2d 79, 81 (9th Cir. 1982). Generally, an insurer which institutes an interpleader to determine the rights of adverse claimants to policy benefits may recover attorney fees. *See Mass. Mut. Life Ins. Co. v. Morris*, 61 F.2d 104 (9th Cir. 1932); *see also Treinies v. Sunshine Mining Co.*, 99 F.2d 651 (9th Cir. 1938) (holding that a corporation which instituted an interpleader to determine the rights of conflicting claimants to a particular stock was entitled to attorney fees). “[A]ttorneys' fee awards are properly limited to those fees that are incurred in filing the action and pursuing the plan's release from liability, not in litigating the merits of the adverse claimants' positions.” *Trustees of Directors Guild of America-Producer Pension Benefits Plans v. Tise*, 234 F.3d 415, 426 (9th Cir. 2000) (citation omitted) (“Because the scope of compensable expenses is limited, attorneys’ fee awards to the “disinterested” interpleader plaintiff are typically modest.”).

A. Western Reserve

Western Reserve seeks an order: (1) permitting Western Reserve to interplead \$251,576.62 plus interest; (2) dismissing Western Reserve from the action; (3) enjoining any future actions or proceedings against Western Reserve relating to the life insurance proceeds; and (4) awarding Western Reserve attorney fees and costs. (ECF No. 88). Western Reserve contends that the insured’s estate would be entitled to recover under the policy if Plaintiff, the beneficiary of the policy, is found to have killed her husband. Western Reserve contends that the parties are of diverse citizenship, that Western Reserve has no interest in the funds, and that multiple possible claimants exposes Western Reserve to multiple liability.

Plaintiff contends that there are no competing claims to the life insurance benefits because “the Stonebreaker children have not made any claim for the policy benefits” and have disavowed their interests in policy benefits. (ECF No. 166 at 5). Plaintiff contends that the motion for interpleader is “premature” because the probate court has not appointed an administrator for [Robert] Stonebreaker’s estate; therefore, [Robert] Stonebreaker’s estate has not been served with the Third-party Complaint or motions. Plaintiff contends that “[d]ue

1 process requires that the motions be continued until (1) the probate court appoints an
2 administrator and (2) Western Reserve serves the administrator.” *Id.* at 9. Plaintiff contends
3 that the motion is moot because the Stonebreaker children “have expressly stated that they
4 have not made any claim to the policy benefits” *Id.* at 11. Plaintiff contends that Western
5 Reserve is not entitled to attorney fees because “the cost of determining which beneficiary to
6 pay following a homicide of the insured is simply part of an insurer’s cost of doing business.”
7 (ECF No. 171 at 2). Plaintiff also seeks summary judgment on the Counterclaim in
8 Interpleader and Third-party Complaint in Interpleader filed by Western Reserve. (ECF No.
9 117).

10 Plaintiff is the primary beneficiary of Robert Stonebreaker’s life insurance policy which
11 does not name any contingent beneficiaries. Robert Stonebreaker died and the death was ruled
12 a homicide. On August 25, 2010, Plaintiff made a claim for the benefits; however, Plaintiff
13 was a suspect in the insured’s death. If Plaintiff is found to have feloniously and intentionally
14 killed Robert Stonebreaker, the benefits become payable to the Estate of Robert Stonebreaker
15 as though Plaintiff had predeceased Robert Stonebreaker pursuant to Cal. Prob. Code § 252.⁴
16 Accordingly, the Estate of Robert Stonebreaker may have a claim to the benefits. To date, no
17 other claims have been made on the insurance benefits; however, an executor has not been
18 appointed to the Estate of Robert Stonebreaker.

19 The Court finds this case is an appropriate interpleader action under § 1335 on the
20 grounds that: (1) Western Reserve filed a counterclaim in interpleader pursuant to Rule 22; (2)
21 Western Reserve has demonstrated that it claims no interest in the funds; and (3) there are
22 multiple possible claimants to the insurance benefits.

23 The Court concludes that Western Reserve is entitled to an injunction preventing
24 prosecution against it with respect to the breach of contract claim regarding the interpleaded
25 funds pursuant to 28 U.S.C. § 2361. However, Plaintiff has asserted a separate claim against
26

27 ⁴ The Western Reserve policy provides: “The Beneficiary ... will receive the benefits
28 payable at your death. If the Beneficiary dies before you, the Contingent Beneficiary, if
named, becomes the Beneficiary. If no Beneficiary survives you, the benefits payable at your
death will be paid to the Owner or the Owner’s estate.” (ECF No. 89-6 at 10).

1 Western Reserve regarding the investigation and processing of Plaintiff's claim. Western
2 Reserve is not entitled to an injunction preventing prosecution against it with respect to
3 Plaintiff's claim for breach of the implied covenant of good faith and fair dealing.

4 In this case, Western Reserve is entitled to attorney's fees for the interpleader, but
5 Western Reserve states that it "will submit an accounting of its attorney's fees and costs when
6 requested by the Court." (ECF No. 88-1 at 11). The Court cannot conclude from the evidence
7 the amount of attorney's fees should be awarded to Western Reserve. Defendant may file a
8 supplemental motion for attorney's fees no later than fourteen days from the date of this order.

9 The Motion for Judgment in Interpleader (ECF No. 88) filed by Defendant Western
10 Reserve is GRANTED in part. Plaintiff's Motion for Summary Judgment on the Counterclaim
11 in Interpleader and Third-party Complaint in Interpleader filed by Western Reserve (ECF No.
12 117) is DENIED.

13 **B. Union Security**

14 Union Security seeks judgment in interpleader and seeks to be discharged from this
15 case. (ECF No. 141). Union Security states that "If Ms. Stonebreaker 'feloniously and
16 intentionally' killed her husband, then pursuant to California Probate Code section 252, the
17 proceeds from the Union Security policy would pass to her two minor children as the named
18 secondary beneficiaries, as if she had predeceased them under that statute." *Id.* at 4. Union
19 Security contends that although the guardian ad litem for the minor Stonebreaker children has
20 disclaimed any interest in the funds, "[Robert] Stonebreaker's estate has potential claims to the
21 policy benefits ... and an administrator has not been appointed for [Robert] Stonebreaker's
22 estate nor has it appeared in this action." (ECF No. 195 at 5). Union Security contends that
23 it has no interest in the interpleaded funds. Union Security contends that Plaintiff is not
24 entitled to summary judgment on the Counterclaim in Interpleader and First Amended Cross-
25 claim in Interpleader on the grounds that Union Security properly interpleaded the funds.
26 (ECF No. 163).

27 Plaintiff contends that "[t]he Court should deny Union Security's motion to the extent
28 that it seeks to dismiss plaintiff's claim for breach of the implied covenant of good faith and

1 fair dealing.” (ECF No. 185 at 5). Plaintiff also seeks summary judgment on the Counterclaim
 2 in Interpleader and First Amended Cross-claim in Interpleader filed by Union Security.⁵ (ECF
 3 No. 122).

4 Plaintiff is the primary beneficiary of Robert Stonebreaker’s life insurance policy.
 5 Kirsten Stonebreaker and Kelli Stonebreaker are the contingent beneficiaries. Robert
 6 Stonebreaker died and the death was ruled a homicide. Plaintiff Stonebreaker has made a
 7 claim for the benefits; however, Plaintiff was a suspect in the insured’s death. If Plaintiff is
 8 found to have feloniously and intentionally killed Robert Stonebreaker, the benefits become
 9 payable as though Plaintiff had predeceased Robert Stonebreaker pursuant to Cal. Prob. Code
 10 § 252. The benefits would become payable to the contingent beneficiaries or to the Estate of
 11 Robert Stonebreaker.⁶ Accordingly, the contingent beneficiaries and the Estate of Robert
 12 Stonebreaker may have a claim to the benefits. To date, no other claims have been made on
 13 the insurance benefits; however, an executor has not been appointed to the Estate of Robert
 14 Stonebreaker.

15 The Court finds this case is an appropriate interpleader action under § 1335 on the
 16 grounds that: (1) Union Security filed a counterclaim in interpleader pursuant to Rule 22; (2)
 17 Union Security has demonstrated that it claims no interest in the funds; and (3) there are
 18 multiple possible claimants to the insurance benefits.

19 The Court concludes that Union Security is entitled to an injunction preventing
 20 prosecution against it with respect to the breach of contract claim regarding the interpleaded
 21 funds pursuant to 28 U.S.C. § 2361. However, Plaintiff has asserted a separate claim against
 22 Union Security regarding the investigation and processing of Plaintiff’s claim. Union Security
 23

24 ⁵ Plaintiff filed a Motion for Summary Judgment on the Counterclaim in Interpleader
 25 and Cross-claim for Interpleader filed by Union Security. (ECF No. 118). After Plaintiff filed
 26 her Motion for Summary Judgment, Union Security filed a First Amended Cross-claim in
 27 Interpleader which identified the Roe cross-defendants as Kristin Stonebreaker and Kelli
 Stonebreaker and their guardian ad litem. (ECF No. 119). Accordingly, Plaintiff’s Motion for
 Summary Judgment on the Counterclaim in Interpleader and Cross-claim for Interpleader (ECF
 No. 118) is DENIED as moot.

28 ⁶ The Union Security policy provides: “The proceeds will be paid to you or your estate
 if the insured dies and no beneficiary survives the insured or no beneficiary was ever named.”
 (ECF No. 140-15 at 13).

1 is not entitled to an injunction preventing prosecution against it with respect to Plaintiff's claim
2 for breach of the implied covenant of good faith and fair dealing.

3 Union Security is entitled to attorney's fees for the interpleader, but Union Security
4 states that it "will submit an accounting of its attorneys' fees and costs upon the Court's
5 request." (ECF No. 141 at 9). The Court cannot conclude from the evidence the amount of
6 attorney's fees should be awarded to Union Security. Defendant may file a supplemental
7 motion for attorney's fees no later than fourteen days from the date of this order.

8 The Motion for Discharge and Dismissal of Disinterested Stakeholder (ECF No. 141)
9 filed by Union Security is GRANTED in part. Plaintiff's Motion Summary Judgment on the
10 Counterclaim in Interpleader and First Amended Cross-claim in Interpleader filed by Union
11 Security (ECF No. 122) is DENIED.

12 **C. Guardian**

13 Plaintiff seeks summary judgment on the Counterclaim in Interpleader and Cross-claim
14 for Interpleader filed by Guardian and seeks disbursement of the interpleaded funds to
15 Plaintiff. (ECF No. 116). Plaintiff contends that "Guardian filed an interpleader action ... and
16 deposited the policy benefits ...; [o]nce responsive pleadings were filed by Mrs. Stonebreaker
17 and [the guardian ad litem] on behalf of the Stonebreaker children, the first stage of the
18 interpleader process was complete." (ECF No. 175 at 2). Plaintiff states that "the only issue
19 left for the Court to decide is whether the interpleader funds should be paid to Mrs.
20 Stonebreaker or her children." *Id.* Plaintiff contends that she is entitled to the interpleaded
21 funds because the children have stated that they do not make any claim to the life insurance
22 benefits and "Guardian has not produced a shred of evidence that Mrs. Stonebreaker had
23 anything to do with her husband's death." *Id.*

24 Guardian opposes Plaintiff's motion "to the extent the motion seeks an order releasing
25 funds without setting aside a portion of the interpleaded funds for reimbursement of the
26 Guardian's attorney's fees and expenses in this matter." (ECF No. 158 at 4). Guardian
27 contends that it has already expended over \$100,000 in attorneys fees and costs and "estimates
28 that it could expend in excess of \$750,000 by the end of the case." *Id.* Guardian states that at

1 the time of Robert Stonebreaker's death he had a whole life policy in the amount of \$250,000
2 and term life insurance policies in the amount of \$1,750,000. "Guardian requests that not more
3 than \$250,000 of the \$2 million Guardian has interpleaded with the Court be released.... [t]his
4 is fair since Dr. Stonebreaker's \$250,000 whole life policy ... was the only paid up policy in
5 force at the time of his death." *Id.* at 15. Guardian contends that "[t]he remaining \$1,750,000
6 in Term Life Policies had lapsed due to non-payment of premiums."⁷ *Id.* at 4. Guardian also
7 states that it "intends to file a motion for discharge from liability and a request for its attorney's
8 fees and expenses." *Id.* at 16.

9 The Counterclaim in interpleader states: "The proceeds of the Guardian Policies total
10 \$2,000,000.... Guardian has no interest in the proceeds of the Guardian Policies and is a mere
11 stakeholder in this action." (ECF No. 17 at 7). Guardian deposited \$1,998,397.41 with the
12 Clerk of the Court as "the benefits payable under a life insurance policies issued by [Guardian]
13 on the life of Robert Stonebreaker." (ECF No. 121 at 2). Although Guardian opposed the
14 distribution of the funds to Plaintiff in an amount exhausting any possible attorney's fees
15 recovery for filing the Interpleader, Guardian has not asserted any interest in the funds.

16 Plaintiff is the primary beneficiary of Robert Stonebreaker's life insurance policy.
17 Kirsten Stonebreaker, Kelli Stonebreaker, and Ryan Stonebreaker are the contingent
18 beneficiaries. Robert Stonebreaker died and the death was ruled a homicide. Plaintiff
19 Stonebreaker has made a claim for the benefits; however, Plaintiff was a suspect in the
20 insured's death. If Plaintiff is found to have feloniously and intentionally killed Robert
21 Stonebreaker, the benefits become payable as though Plaintiff had predeceased Robert
22 Stonebreaker pursuant to Cal. Prob. Code § 252. The benefits would become payable to the
23
24

25 ⁷ Guardian asserts that under the terms of the policies, the lapsed term life policies
26 could not be reinstated. However, "[d]espite the passing of Dr. Stonebreaker ... [Guardian]
27 preserve[d] the death benefits of Dr. Stonebreaker's Term Policies by applying dividends
28 earned in Dr. Stonebreaker's Whole Life Guardian Policy No. 1 to the Term Policies' unpaid
premiums." (ECF No. 158 at 6). Guardian states: "Right or wrong, as a result of these efforts
on behalf of Dr. Stonebreaker's beneficiaries, The Guardian reinstated the Term Policies to
give Dr. Stonebreaker's beneficiaries the benefit of three policies with a total death benefit of
\$2,000,000, instead of one whole life policy with a death benefit of \$250,000." *Id.*

1 contingent beneficiaries or to the Estate of Robert Stonebreaker.⁸ To date, no other claims
 2 have been made on the insurance benefits; however, an executor has not been appointed to the
 3 Estate of Robert Stonebreaker.

4 The Court finds this case is an appropriate interpleader action under § 1335 on the
 5 grounds that: (1) Guardian filed a counterclaim in interpleader pursuant to Rule 22; (2)
 6 Guardian has demonstrated that it claims no interest in the funds; and (3) there are multiple
 7 possible claimants to the insurance benefits. Guardian has not filed a motion for an injunction
 8 preventing prosecution pursuant to 28 U.S.C. § 2361 or a request for its attorney's fees.

9 Plaintiff's Motion for Summary Judgment on the Counterclaim in Interpleader and
 10 Cross-claim for Interpleader filed by Guardian (ECF No. 116) is DENIED.

11 **III. Disbursement of Interpleaded Funds**

12 Plaintiff seeks disbursement of the funds deposited by Western Reserve to Plaintiff.
 13 (ECF No. 155). Plaintiff seeks disbursement of the funds deposited by Union Security to
 14 Plaintiff. (ECF Nos. 153-54). Plaintiff seeks disbursement of the funds deposited by
 15 Guardian. (ECF No. 152). Plaintiff contends that the funds should be disbursed to her because
 16 the guardian ad litem for the Stonebreaker children filed a notice of no competing claim and
 17 Plaintiff has submitted sufficient evidence to show that she did not kill Robert Stonebreaker.
 18 (ECF Nos. 192-93).

19 All potential claimants are entitled to have an opportunity to make a claim to the
 20 interpleaded funds. In this case, the Estate of Robert Stonebreaker has not appeared. The
 21 parties shall file a supplemental brief regarding the appointment of an executor to the Estate
 22 of Robert Stonebreaker no later than 30 days from the date of this Order, and every 30 days
 23 thereafter until an executor is appointed to the Estate of Robert Stonebreaker. The Motions
 24 for Release of Funds (ECF Nos. 152-55) filed by Plaintiff Stonebreaker remain pending.

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 28 ⁸ The Guardian policies provides: "Unless otherwise provided, if no designated
 beneficiary is living ... the owner or the owner's estate is the beneficiary." (ECF No. 116-5
 at 77, 114, 145).

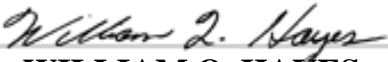
IV. Conclusion

IT IS HEREBY ORDERED that:

- (1) The Motion for Partial Summary Judgment on Plaintiff's Breach of Contract Claims (ECF No. 37), the Motion for Summary Judgment on Defendant Union Security's Counterclaim and Cross-claim for Interpleader (ECF No. 118) are DENIED as moot;
- (2) The Motion for Judgment in Interpleader (ECF No. 88) filed by Defendant Western Reserve and the Motion for Discharge and Dismissal of Disinterested Stakeholder (ECF No. 141) filed by Union Security are GRANTED in part. Western Reserve and Union Security are fully discharged from liability for the breach of contract claim regarding the interpleaded funds. The parties are enjoined from instituting or prosecuting any proceeding in any State or United States court against Western Reserve and Union Security with respect to the interpleaded funds until further order of the Court. The injunction does not apply to Plaintiff's claim for breach of the implied covenant of good faith and fair dealing against Western Reserve or Union Security.
- (3) The Motion for Summary Judgment on Defendant Guardian's Counterclaim in Interpleader and Cross-claim for Interpleader (ECF No. 116), the Motion for Summary Judgment on Defendant Western Reserve's Counterclaim in Interpleader and Third-party Complaint for Interpleader (ECF No. 117), and the Motion for Summary Judgment on Defendant Union Security's Counterclaim in Interpleader and Cross-claim for Interpleader (ECF No. 122) filed by Plaintiff Stonebreaker are DENIED;
- (4) The Motion for Release of Funds that Guardian Deposited with the Court (ECF No. 152); the Motion for Release of Funds that Union Security Deposited with the Court (ECF Nos. 153-54) and the Motion for Release of Funds that Western Reserve Deposited with the Court (ECF No. 155) filed by Plaintiff Stonebreaker remain pending. The parties shall file a supplemental brief regarding the

1 appointment of an executor to the Estate of Robert Stonebreaker no later than 30
2 days from the date of this Order, and every 30 days thereafter until an executor
3 is appointed to the Estate of Robert Stonebreaker.

4 DATED: February 23, 2012

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6 **WILLIAM Q. HAYES**
7 United States District Judge
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